



FINAL DRAFT

POLICY ON HARASSMENT AND BULLYING AT WORK

Date Approved by Trust Board	Version	Issue Date	Review Date	Executive Lead	Information Asset Owner	Author
	06			Executive Director of Personnel & Development	Head of Personnel	
Procedure/Policy Number	PP4					
Procedure/Policy type	Personnel Policy					
Date Equality impact assessment completed:						
CQC Outcomes:	14					

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HARASSMENT AND BULLYING POLICY AND PROCEDURE

1. Introduction

- 1.1 In this policy the term the 'Trust' refers to South Tyneside NHS Foundation Trust.
- 1.2 The Trust has a responsibility as an employer to provide a safe and healthy workplace and working environment for all its employees and is committed to:
- i. Having a working environment free from harassment and/or bullying of any type.
 - ii. Empowering staff to challenge harassment and/or bullying.
 - iii. Providing support to employees who challenge harassment and/or bullying.
 - iv. Having in place appropriate procedures to deal with the alleged incidents of harassment and/or bullying quickly and effectively.
- 1.3 The Trust recognise that harassment and/or bullying can have an adverse effect on an employee's health, self esteem and job performance. It leads to demotivated employees who are fearful of making decisions or using initiative. It often results in high levels of absenteeism, staff turnover and stress related illnesses.

2. Aim of the Policy

- 2.1 The aim of this policy is to ensure that all employees are aware of the right to challenge such behaviour at an early stage. It describes both informal and formal means of challenging harassment and bullying but the over-riding aim is to resolve such issues quickly and, wherever possible, informally.

3. Scope of the Policy

- 3.1 The Trust is committed to promoting human rights and providing equality of opportunity, not only in our employment practices but also in the way we provide services. The Trust also values and respects the diversity of our employees and the communities we serve. In applying this policy, the Trust will have due regard for the need to:
- Promote human rights
 - Eliminate unlawful discrimination
 - Promote equality of opportunity
 - Provide for good relations between people of diverse groups
 - Consider providing more favourable treatment for people with disabilities

This policy aims to be accessible to everyone regardless of age, disability (physical, mental health or learning disability), gender (including transgender) race, sexual orientation, religion or belief or any other factor which may result in unfair treatment or inequalities in health or employment.

4. Roles and Responsibilities

4.1 Chief Executive

The Chief Executive is accountable for ensuring the proper application of the policy through appropriate management arrangements.

4.2 Board of Directors

All Directors have corporate responsibility to provide a safe working environment. The Directors are responsible for exercising the Trust duty of care and shall ensure adequate arrangements are in place for implementing this policy.

4.3 All Managers

All Managers are responsible for:

- i. Ensuring that their staff are aware of the contents this policy, through induction and team communications and that they reinforce the message that the Trust will not tolerate any form of bullying and/or harassment.
- ii. Taking all reasonable steps to prevent harassment and bullying by providing a work environment where it is made clear to all staff that behaviour which may potentially cause offence is not acceptable.
- iii. Be aware of their team members' behaviours and take steps to address any action, which may cause offence or distress.
- iv. Lead by example through a fair and open management style.
- v. To encourage and atmosphere of tolerance, dignity and respect.
- vi. Be supportive of employees who come to them with concerns about unacceptable behaviour.
- vii. Taking appropriate action if harassment or bullying occurs and ensuring that complaints of harassment or bullying are treated sensitively, seriously and in accordance with this policy and ensure that the strictest confidentiality is maintained at all times.
- viii. Ensuring that their staff understand who to report concerns about harassment to and the role of Listening Advisers.
- ix. That they do not engage in any act themselves which may be perceived as bullying/harassment by others.

4.4 All Employees

All employees have a personal responsibility to:

- i. Ensure that they aware of the Trust's Harassment and Bullying policy and comply with the requirements of this policy. Further support and advice information is included in Appendix 1.
- ii. Think about their behaviour and actions and how these may impact on others.
- iii. Treat fellow workers with dignity and respect and not to bully, harass, or victimise colleagues or any other person on any grounds.
- iv. Not to display behaviour or actions that are unwelcome or undermine fellow

- employees or any other person.
- v. Report any forms of harassment or bullying that they witness e.g. to a manager, Listening advisers, Trade Union/Professional organisation, Personnel representative.
 - vi. Provide support to colleagues who are being harassed or bullied and helping them to report this if appropriate.
 - vii. Not to make false accusations with a deliberate attempt to damage another person's reputation, dignity and character.

4.5 Personnel Department

The Personnel department is responsible, on behalf of the Trust, for formulating the policy on Harassment and Bullying. The Personnel department will provide training and guidance to managers on the practical operation of this policy and ensure that new entrants to the organisation receive a copy of this policy.

The role of the Personnel department is to advise and assist all employees and managers in dealing with harassment and bullying matters both prior to informal action being taken and throughout the informal and formal stages. This is with the aim of ensuring fairness and consistency in application throughout the Trust.

4.6 Trade Unions/Professional Organisations

Trade Unions/Professional organisations will continue to be consulted and involved as a partner in formulating and implementing policies and procedures for the handling of harassment and bullying at work as well as being kept informed of particular problems and will be given the opportunity to provide members with advice.

A Trade Union/Professional organisation representative will have the right to represent any employee informally and at an investigatory meeting. Their role will be to ensure the employee is treated fairly and sensitively and that the agreed policy and procedures are followed as well as providing members with advice.

4.7 Listening Advisers

The Trust have identified a number of Listening advisers to help support the individual at the earliest opportunity, recognising that very often the employee's wish in the majority of cases is to stop the problem rather than to take formal action against the alleged harasser or bully (Please see Appendix 1 for details of the Trust's Listening advisers).

Listening advisers have been trained to offer a confidential listening service to any member of staff suffering from harassment or bullying AND to any member of staff who has had an allegation of harassment or bullying made against them. They are available to give information and guidance, and to ensure that employees are not discouraged from bringing forward complaints.

The Listening adviser will discuss the options open to the employee and help the employee determine if and how they want to progress matters. They will not divulge information to any other person without the explicit agreement of the employee. The Listening advisers will keep basic records and provide anonymised information to the Executive Director of Personnel and Development. Employees are not obliged to refer their complaint to a Listening adviser and may choose to involve a work colleague or Trade Union/Professional organisation either instead of, or as well as, the adviser or deal with the matter themselves or speak to a member of the Personnel department.

5. Legislation - The Equality Act 2010

5.1 The Equality Act 2010 gives protection from discrimination, including harassment and victimisation in relation to the nine protected characteristics:

- **Age**
- **Disability**
- **Gender Reassignment**
- **Marriage and Civil Partnership**
- **Pregnancy and Maternity**
- **Race**
- **Religion or belief**
- **Sexual orientation**
- **Sex**

6. Definitions of Harassment and Bullying at Work

6.1 Harassment

Within the Equality Act 2010, the current definition of harassment is:-
'Unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.'

Harassment, in general terms is: 'unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion/belief, nationality, colour, sexual orientation, pregnancy, maternity, marital or civil partnership status, transgender status, or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.'

There is not a definitive list of what defines harassment as it is often specific to the person, relating to their feelings of respect and dignity. In case of harassment it is not the intention of the perpetrator that is key in deciding if harassment or bullying has occurred, but whether the behaviour is unacceptable by reasonable standards and is disadvantageous or unwelcome to the person or people subjected to it.

6.2 Bullying

Within the Equality Act 2010, bullying is defined as ‘offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.’

6.3 ‘At Work’

‘At Work’ can be defined as any place when the occasion can be identified with either the requirement of the employer, or with social events linked to the same employment. This may include using social media or other Internet sites, interactive and digital technologies or mobile phones. It also includes any place where NHS care is delivered.

7. Forms of Harassment and Bullying

7.1 Harassment and bullying can take many forms; it can range from extreme forms such as aggression and violence, to less obvious actions such as repeatedly ignoring someone at work. Whatever the form of harassment or bullying, it will be unwanted behaviour which is unwelcome and unpleasant on the part of the recipient.

7.2 Although not an exhaustive list, forms of harassment and bullying may include:

- **Physical Conduct** - unwanted and unnecessary touching, feeling, patting, body contact, assault or physical threat;
- **Verbal Conduct** - threats, jokes or innuendos, bad language, abusive language, unwanted sexual advances or mockery, shouting at a person;
- **Non Verbal Conduct** – unfair allocation of work;
- **Visual Display** - offensive printed materials, emblems, photographs and obscene gestures;
- **Cyber-bullying**- tormenting, threatening, harassing, humiliating, embarrassing or otherwise targeting a person using the Internet, social media interactive and digital technologies or mobile phones;
- **Isolation or non co-operation** - unfair exclusion from promotion, training opportunities or social activities;
- **Coercion** - ranging from pressure for sexual favours to pressure to participate in political/religious groups;
- **Surveillance and Intrusion** - following people around, staring, leering, pestering, spying and obstruction;
- **Victimisation** - usually occurs where a person is treated less favourably than another because he/she brought proceedings, given evidence or complained

about the behaviour of someone who has been using harassing or discriminating behaviour against them or others;

- **Psychological** – persistent criticism, personal insults, exclusion from social activities, ignoring the individual, making threats or comments about job security without foundation;
- **Competence** – setting impossible deadlines, deliberately undermining by overloading and constant criticism;
- **Accumulation** – bullying might be an accumulation of small incidents;
- **Control** – the complainant is often seen as a threat to the bully.

7.3 What is not bullying and Harassment

Effective management

We expect our managers to lead and manage employees appropriately. This involves setting and making sure employees understand performance standards. It also involves dealing in a respectful and constructive way with employees who may fall below the standards.

Organisational change

Organisational change is both essential and inevitable. The reasons behind organisational change may be caused by many factors, for example, cuts in budget, economic downturn, the introduction of new legislation, service reform or changes to organisational strategy. We recognise that changes can at times result in employees feeling apprehensive, upset and resistant to change. Organisational change is never intended to undermine or humiliate employees but will always be aimed at improving patient services or meeting economic challenges.

8. Effects of Harassment and Bullying

- 8.1 Harassment or bullying is normally a repeated act, but a serious isolated incident may require similar action to resolve the issue and prevent re-occurrence. It need not be a conscious act and need not be directed personally at a single individual. In some cases an employee may feel harassed or bullied by witnessing unacceptable behaviour towards a colleague, which may cause them to feel fearful and intimidated about their work environment. In all cases of harassment and bullying, what is reasonable in terms of behaviour and perception, in the circumstances will be required to be taken into account.
- 8.2 In many cases the alleged harasser or bully may not be aware that their actions are perceived as harassment or bullying of others. Staff need to acknowledge that behaviour which is acceptable to some people is unacceptable to others, and what matters is how their actions are viewed by the person on the receiving end of their behaviour.

- 8.3 An employee who perceives they are being harassed or bullied also has a responsibility to raise the issue with either a Listening adviser or a friend or Trade Union/Professional organisation or a member of the Personnel department or their line manager.
- 8.4 Harassment and bullying will impact on an individual's psychological wellbeing and may well cause anxiety or depression or a combination of both which then could initiate increased absenteeism, an apparent lack of commitment, poor performance and even resignation. It is therefore important managers can understand and recognise the symptoms of both anxiety and depression and initiate appropriate and timely support, rather than capability processes for the affected individual.
- 8.5 For an organisation, harassment and bullying can cause the following indirect implications: increased absenteeism, increased overtime, missed deadlines, increased accidents in the workplace, poor decision making, poor customer care, low morale, increased turnover, reduced productivity, lower efficiency and divided teams.

9. Informal Resolution Stage

- 9.1 The aim of this policy is to promote the raising, discussion and resolution of issues to stop harassment or bullying. It is acknowledged that the complainant's views are paramount to this process but in all cases of harassment and bullying, what is reasonable in the circumstances will be required to be taken into account.

The employee should keep a note of what has happened and the actions taken and this will help them to clear their thoughts and will be useful if they need to recall the facts. An employee who perceives they are being harassed or bullied may wish to consider pursuing one or more of these options:

- i. Where possible the employee should approach the person directly and tell them firmly in a straight forward way that their behaviour is unacceptable and they want it to stop. This overcomes the problem of the alleged harasser or bully not perceiving their own behaviour as such.
 - ii. Approach a Listening adviser, Personnel representative, a Trade Union/Professional organisation representative or someone else at work who they feel they can trust to discuss the harassment and/or bullying issues. The discussion would be with a view to considering options of how to deal with it and/or to seek advice and guidance or general support.
- 9.2 If the employee chooses one of the options above and the situation appears to be resolved, they may decide to take no further action.
- 9.3 However, if the issue is not resolved by the initial approaches or the employee does not have the confidence to challenge the alleged harasser or bully or feels they may be victimised by doing so, they should raise the issue with their

manager. If the employee's line manager/leader is the alleged harasser or bully, the employee may wish to raise the issue with their manager's manager.

- 9.4 The manager will listen, take notes and ask some questions in order to understand and establish what has happened. It is important that the employee describes the situation as frankly as possible with specific examples. Any written notes the employee has kept may be helpful.
- 9.5 In dealing with such matters informally, the manager will need to explore the issues from both sides to try and substantiate the facts. In doing so, it is essential that the manager tries to establish the reasons why the employee who feels harassed or bullied finds the behaviour unacceptable and whether this is reasonable in the circumstances. It is important at this stage that the manager does not substitute their own subjective views as to whether the behaviour identified constitutes harassment or bullying and seeks advice on the issue from the Personnel department.
- 9.6 At this stage it is crucial that all parties understand that to resolve the situation the difficulties need to be aired with the parties involved. This should be done sensitively and it will be agreed with all concerned the way in which the issues will be raised and resolved. All parties will be supported and feel protected in raising their concerns.
- 9.7 In many cases this approach will enable the manager to resolve the issue directly with the employee concerned on an informal basis to ensure that the behaviour causing offence is stopped.
- 9.8 Direct and prompt action will normally avoid the alleged harasser or bully continuing their behaviour due to their lack of awareness that the employee considers it to be unacceptable. An informal approach is preferable in many cases as an effective means to stop the harassment or bullying and will prevent the issue escalating to become a formal complaint of harassment or potentially a disciplinary case. This approach should be completed within the minimum time possible and normally no longer than 28 calendar days from the date of the initial discussion.

9.9 Confidentiality

The strictest confidentiality will be observed at all times throughout the application of this process by all individuals involved. Every effort should be made by all individuals involved not to discuss any aspects of the case outwith those directly involved in the process. Employees must be advised that to discuss any aspects of the case with any colleagues directly involved in the issue other than their representative may be prejudicial to the investigation. Any contravention to these terms may be regarded as a breach of conduct, which may lead to disciplinary action being taken.

10. Mediation Following Informal Resolution Stage

- 10.1 If the outcome of the informal resolution stage has not been successful for any reason, or resolved the situation then workplace mediation must take place before a complaint is dealt investigated formally.
- 10.2 Workplace mediation is facilitated by an independent external mediator. The mediator facilitates communication, promotes understanding, focuses the parties on their issues and uses creative problem-solving techniques to enable the parties to reach their own agreement.
- 10.3 The aims of the mediation process are:-
- To enable the parties involved in the workplace concerns/issues to express their feelings, emotions, views and opinions in a full and frank manner without fear of judgement, criticism or any subsequent retribution.
 - To mutually identify all the issues and problems.
 - To mutually identify all possible solutions for the dispute.
 - To mutually seek and negotiate any possible settlement to the dispute.
 - For both parties to mutually agree and sign up to how the way forward will be established and progressed.
 - To seek to establish or restore a professional, working relationship to the mutual agreement and satisfaction of the parties to the workplace concerns/issues.
- 10.4 Once it is established that mediation will need to take place, the Personnel will contact the independent external mediator within 7 calendar days to initiate the mediation process. Prior to the commencement of the mediation the manager and a senior member of the Personnel department will appraise the mediator on the issues and concerns.
- 10.5 After the mediation is completed the manager will meet with the employee within 21 calendar days to ensure that the situation has improved or if the matter needs to proceed through the formal stage.
- 10.6 The strictest confidentiality will be observed at all times throughout the application of the mediation process by all individuals involved. Every effort should be made by all individuals involved not to discuss any aspects of the case outwith those directly involved in the process. Employees must be advised that to discuss any aspects of the case with any colleagues directly involved in the issue other than their representative may be prejudicial to the mediation process. Any contravention to these terms may be regarded as a breach of conduct itself, which may lead to disciplinary action being taken.

10.7 It is recognised in some circumstances that it may not be appropriate for mediation to take place, for example in cases of alleged sexual harassment. In such cases the matter will be discussed with the Personnel department who will advise on whether it proceeds directly to the formal stage.

11. Formal Stage

11.1 The employee may wish to raise the issue formally where they are not satisfied that the initial actions in the informal stage have been effective and the mediation process has not been successful, or the harassment or bullying has continued or worsened.

11.2 The employee may seek support and representation from a Trade Union/Professional organisation and/or support from a colleague and/or a Listening adviser.

11.3 The employee should make the complaint in writing and send this in confidence to their manager (or that person's manager if the manager is the alleged harasser or bully). The complaint should state:

- i. The name of the alleged harasser.
- ii. The nature of the alleged harassment or bullying.
- iii. Their feelings at the time.
- iv. Date and times, where possible, when the alleged harassment or bullying occurred.
- v. The names of witnesses, where possible, to any incidents of alleged harassment or bullying.
- vi. Any action already taken by the complainant to stop the alleged harassment or bullying, including whether the alleged harasser has been approached.
- vii. Whether mediation has taken place.
- viii. What the complainant's preferred outcome is.

11.4 Immediately after a complaint of harassment or bullying has been received by the manager, the manager will have a detailed discussion of the facts of the case with a senior member of the Personnel department to consider the practicalities of whether it is necessary to separate the alleged harasser or bully from the complainant at work as an immediate action. This step should be taken if it is considered appropriate irrespective of whether or not the complaint is ultimately upheld. In exceptional circumstances either party could be moved but this will be considered on a case by case basis.

11.5 If the issues raised in the complaint of harassment or bullying are of a very serious nature and could potentially constitute gross misconduct, exclusion from duty should be considered in accordance with the Trust's Disciplinary procedure.

11.6 Following a discussion between the manager of the service and personnel an Investigating officer will be appointed, who will be supported by a senior member of the Personnel department.

- 11.7 The Investigating officer ideally should:
- i. Have experience in handling general employee complaints and grievances.
 - ii. Be outside the line management responsibility of the complainant and the alleged harasser.
- 11.8 As soon as the Investigating officer is appointed, they will meet with the alleged harasser or bully and will advise them of the complaint, the process and the likely timescales for the investigation and that support is available for them from a harassment adviser and/or a Trade Union/Professional organisation representative.
- 11.9 The investigation process will often prove to be stressful for both the complainant and the alleged harasser. Colleagues will often 'take sides' and parties to the investigation may express many emotions. For this reason it is essential that support mechanisms be established for the complainant and the alleged harasser, as well as the witnesses involved in the case. Support mechanisms include the Listening advisers, Trade Union/Professional organisation representatives, the Occupational Health department, Trust's Counselling service and a named Personnel representative who will act as a personal confidential support. It is also important that the strictest confidentiality is maintained by all parties involved.
- 11.10 A thorough formal investigation will be instigated with all parties (including witnesses) being briefed on an individual basis about the process and likely timescales of the investigation.

12. The Investigation

12.1 Confidentiality

The strictest confidentiality will be observed at all times throughout the application of this process by all individuals involved. Every effort should be made by all individuals involved not to discuss any aspects of the case outwith those directly involved in the process. Employees must be advised that to discuss any aspects of the case with any colleagues directly involved in the issue other than their representative may be prejudicial to the investigation. Any contravention to these terms may be regarded as a breach of conduct, which may lead to disciplinary action being taken.

It is essential that the following confidentiality guidelines are adhered to:

- i. Only disclose information on a 'need to know' basis.
- ii. Be clear about 'off the record' information, that any information received may not always be considered off the record but will however be treated with sensitivity.
- iii. Restrict the viewing and circulation of documents relating to the investigation to those involved in the investigation.

12.2 Record Keeping

Record keeping plays a vital role in the process of investigating a case of harassment or bullying. Clear and comprehensive records should be kept of any allegations made how these were followed up and resolved together with details of decisions and any action taken.

It is important to ensure that every interview is fully and properly documented in order that a fair assessment of the facts can take place for this reason it is usual for the interviews to be recorded and a transcript will be provided to the employee and /or their representative to sign and agree to the best of their knowledge any records are an accurate account and true reflection of the discussion undertaken. Employees or their representative may request a duplicate copy of the tape recording of their investigatory meeting from the Personnel department.

12.3 Meeting with the Complainant

The complainant will have the right to be accompanied by their staff side representative, work colleague or friend. The Investigating officer will be accompanied by a Personnel representative.

The interview should focus on:

- i. Finding out what exactly happened.
- ii. The extent to which the conduct was unwelcome.
- iii. Whether the alleged harasser or bully is a manager/supervisor, team member, a group of people or an outsider.
- iv. Any existing patterns of behaviour.
- v. Corroborating witnesses and other evidence.
- vi. The emotional and physical state of the complainant.

Following the interview, the complainant and /or their representative will be provided with a written transcript of the interview and required to sign and agree that to the best of their knowledge the transcript is an accurate account and a true reflection of the discussion undertaken.

The Personnel representative will send the transcript of the meeting to the complainant within 14 calendar days of the interview. In exceptional circumstances an extension may be granted if this is mutually agreed.

12.4 Meeting with the Alleged Harasser or Bully

The alleged harasser or bully will have the right to be accompanied by their staff side representative, work colleague or friend. The Investigating officer will be accompanied by a Personnel representative.

At the interview the alleged harasser or bully should be made aware:

- i. That the issue being investigated is a serious matter and that the process will be objective and impartial.

- ii. The nature of the complaint against them.
- iii. How long the process will take, how it will be conducted, together with clarification of the decision making process.

The interview should focus on:

- i. Finding out what exactly happened.
- ii. Any existing patterns of behaviour.
- iii. Corroborating witnesses and other evidence.
- iv. The emotional and physical state of the alleged harasser or bully.

The Investigating officer will review the facts of the case by presenting a brief summary to the alleged harasser or bully, go through the sequence of events step by step and note any areas of disagreement and agreement.

Following the interview, the alleged harasser or bully and /or their representative will be provided with a written transcript of the interview and to sign and agree that to the best of their knowledge the transcript is an accurate account and a true reflection of the discussion undertaken.

The Personnel representative will send the transcript of the meeting to the alleged harasser or bully within 14 calendar days of the interview.

During the investigation employee(s) may be excluded from duty if it becomes apparent that the issues raised could potentially constitute gross misconduct or if it is felt that their presence will inhibit investigations; or will make relationships with colleagues difficult to sustain. It is important that an employee is not excluded without proper ground and without full and proper consideration of whether there is an alternative to exclusion from duty.

12.5 Meeting with the Witnesses

All witnesses to the alleged incident(s) of harassment or bullying will also be interviewed by the Investigating officer. They will have the right to be accompanied by a Trade Union/Professional organisation representative, a Listening adviser, or a work colleague or friend of their choice.

The witnesses will be asked to give a full and factual account of the incident(s) and following the interview any witnesses and /or their representative will be provided with a written transcript of the interview and to sign and agree that to the best of their knowledge the transcript is an accurate account and a true reflection of the discussion undertaken.

The Personnel representative will send the transcript of the meeting to the witnesses within 14 calendar days of the interview.

12.6 No Witnesses to an Incident of Harassment/Bullying

Having no witnesses to an event of harassment or bullying does not mean that the incidents did not occur. Most harassment or bullying tends to happen in situations where the parties concerned are isolated and alone.

In a situation where there are no witnesses to an incident, the investigation will examine and consider other evidence such as changes in work performance, the individual's health, their sickness absence records and attendance at work, e-mails, letters or notes which may be related to the case which is being investigated.

12.7 Completion of the Investigation

A full and thorough investigation should be completed as quickly and effectively as possible. Investigations are not expected to exceed 42 calendar days however, on occasions due to the complexity of the complaint and the availability of witnesses and/or Trade Union representatives there may be times when the investigation exceeds this time frame. On these occasions the investigation should be completed as soon as reasonably practical, with the complainant and the alleged harasser or bully being notified in writing of the delay and expected completion date by the investigating officer.

12.8 Report

The Investigating officer will provide a written report of the investigation which will outline the nature of the complaint, the parties involved, the people interviewed and a summary of findings which may include extracts from the interviews, a conclusion and recommendations.

The report will conclude with a recommendation to the manager on whether:

- There is no case to answer.
- There is a case to answer and a disciplinary hearing is recommended.

A feedback meeting should then take place with both parties surrounding the recommendations of the report and the outcomes. They will also receive confirmation in writing the outcome of the investigation within 7 calendar days of the feedback meeting.

13. Outcomes of the Investigation and Appropriate Action

13.1 Once the investigation is concluded, the complainant and the alleged harasser or bully must be informed by the manager/leader verbally and in writing of the outcome of the investigation.

13.2 There are three possible outcomes:

i) The complaint is not founded

Possible Actions:

- Provide therapeutic counselling for both parties, through the Trust's Counselling service.

- If appropriate, further conduct mediation sessions with an external agency to help the individuals resolve minor matters together.
- Consideration should be given to transferring or rescheduling the work of the employees concerned rather than expecting them to continue to work together against the wishes of either party, what is reasonable in each individual case will need to be taken into consideration.

ii) The complaint is founded and a recommendation that a disciplinary hearing is held

If the investigation concludes that there is sufficient evidence of unacceptable conduct, the individual will be dealt with in accordance with the Trust's Disciplinary procedure and may be subject to formal disciplinary action, including warnings, demotion or dismissal as appropriate.

Only certain individuals within the Trust will have the right to take disciplinary action, this is detailed in the Trust's Disciplinary policy.

It may be necessary to conduct the hearing without parties having the right to question each other by considering written statements only or speaking to the individuals separately.

The decision about the action taken in respect of the harasser will be made by the disciplinary panel conducting the hearing and the exact details of this will not necessarily be communicated to the employee making the complaint other than confirmation that appropriate action has been taken. This is in accordance with the Trust's duty of confidentiality to its employees.

Apart from in exceptional circumstances it should not be the employee who has suffered harassment or bullying who is transferred unless they specifically request this action.

iii) The complaint is found to be malicious or spurious

Should it be found that as part of the investigation process an employee has raised a harassment complaint with malicious or spurious intent they may be subject to formal disciplinary action.

14. Appeals

- 14.1 Appeals against any disciplinary action taken against the alleged harasser will be dealt with in accordance with the Trust's Disciplinary Policy appeals procedure.
- 14.2 If the employee who has made a formal complaint of harassment or bullying is dissatisfied when a complaint is not upheld, they have the right to appeal to the Bullying and Harassment Appeals group. Appeals will be looked at by a group comprising a more senior manager from a different division/ department to the

complainant and a Senior Personnel representative (not involved in the original case) will provide advice. The group will review the report and supporting evidence and make a final decision as to whether the investigation conclusion remains as 'not upheld' or if it changes to upheld and proceeds to a disciplinary hearing.

- 14.3 If the alleged harasser or bully is dissatisfied with the investigation process, they may raise a formal grievance through the Trust's Grievance procedure. This will be raised at the appropriate next level of management and the grievance will only deal with matter of process.

15. Harassment or Bullying by Non Trust Staff, Patients or Relatives

- 15.1 The principles of this policy apply to all harassment or bullying by non-Trust staff with whom employees of the Trust work as part of their duties. It also deals with unacceptable behaviour towards staff by patients, relatives or other service users.
- 15.2 In such cases employees have the right to informally raise the issue with their manager with a view to the alleged harasser or bully being asked to stop the behaviour. The employee should not be temporarily moved to appease the patient or relative unless the employee requests this.
- 15.3 Where this appears to have little effect, personal discussion of the issue with the alleged harasser or bully by a more senior manager may stop the behaviour.
- 15.4 Where informal measures fail to resolve the issue, the behaviour should be brought to the attention of the Executive Director, so consideration can be given to a formal letter being sent to the alleged harasser or bully, asking them to stop the harassment or bullying of the employee and potentially invoke the violent patient guidelines.

16. Training

- 16.1 Training in cases of harassment and bullying will be provided by the Trust for the following:-
- All Managers
 - Listening Advisers
 - Personnel staff
 - Occupational Health staff
 - Trade Union/Professional Organisations

17. Monitoring and Reporting

- 17.1 The Personnel department will monitor and report on themes and provide regular statistical information on harassment and bullying cases to the Fairness at work Group and the Executive Director of Personnel and Development. If it is deemed that there are problematic areas and examples of systematic bullying and harassment then this group may initiate a management investigation into these issues.
- 17.2 To assist with the monitoring of incidents of harassment and bullying, it is the responsibility of Managers, Personnel and Listening advisers to complete a Harassment Monitoring form (Appendix 4) in all cases of harassment and bullying and forward this to the Personnel department for action/review.
- 17.3 Staff Side organisations will offer support to staff and help in the process of completing harassment monitoring forms.

18. Review of this Policy and Procedure

This policy will be reviewed periodically by the Personnel department giving due consideration to legislative changes.

19. Related Policies

- 19.1 This policy should also be read in connection with
- Equality Diversity and Human Rights Policy (PP6)
 - Disciplinary Procedure (PP8)
 - Management of Violence and Aggression Policy (RM0032)

Support and Advice Available for Staff

Listening Advisers

Listening advisers are specially trained to deal with problems of harassment and bullying, they are independent from line management and will treat all contacts in complete confidence.

Names to be inserted once the training has been completed

In addition, the following personnel staff can provide support:

- Assistant Divisional Personnel Manager
- Divisional Personnel Manger
- Head of Personnel

Please contact extension 1070 to request a confidential appointment

Support and guidance is also available from:

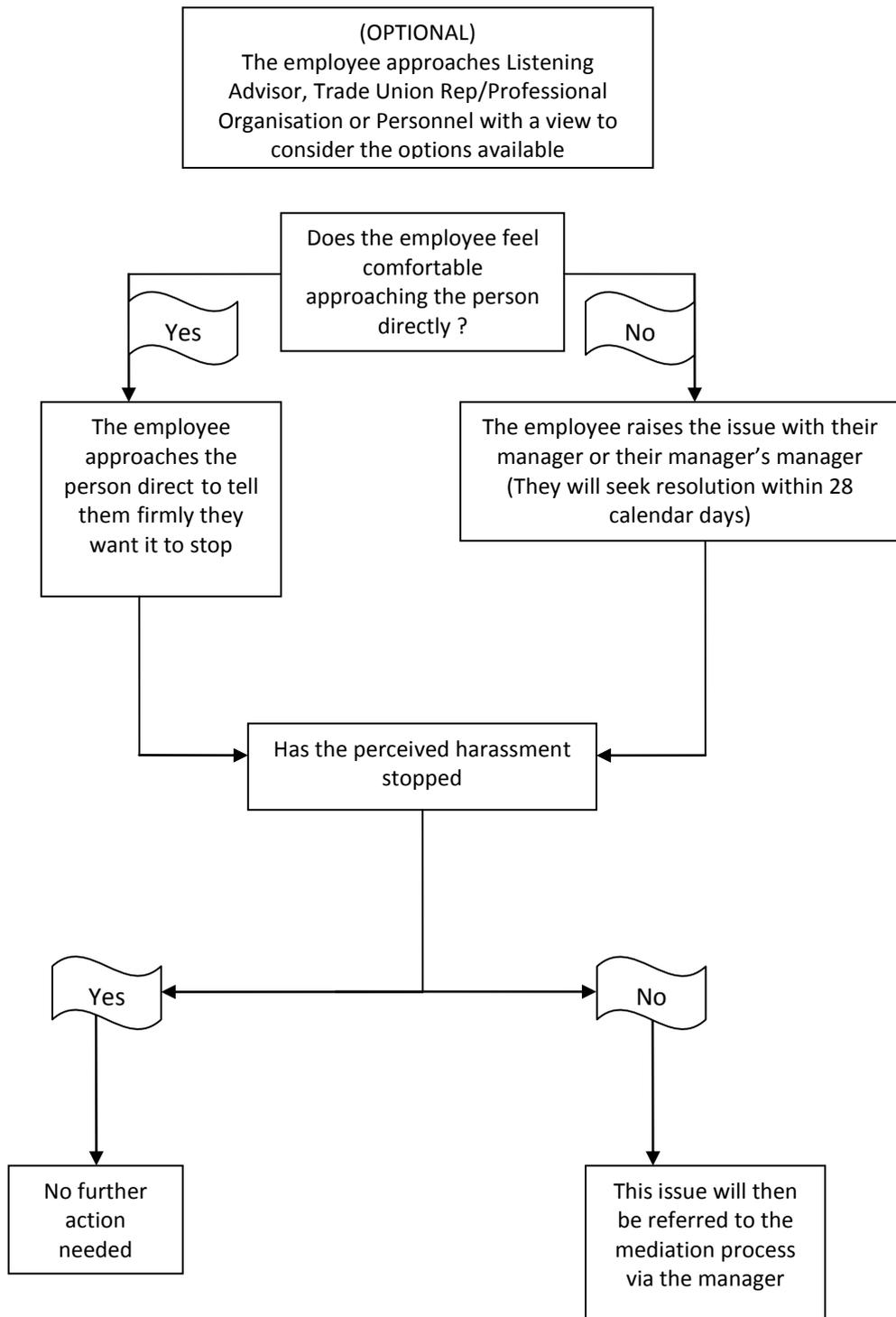
Staff Counsellors can be contacted via the Occupational Health department based at:
South Tyneside District Hospital: 0191 404 1000 ext. 2402.

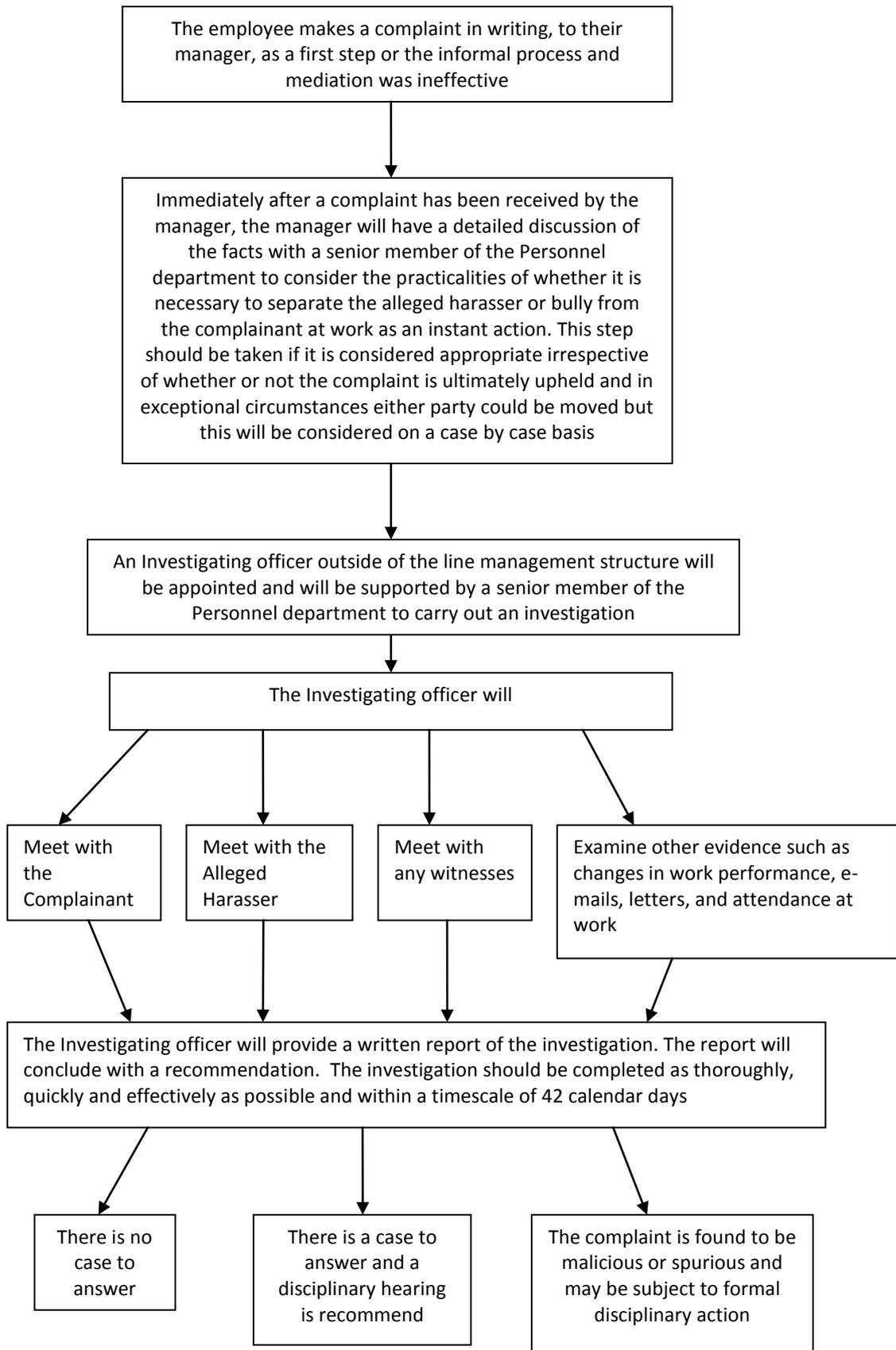
ACAS – 08457 47 47 47

Staff Side Representatives: Contact details can be found on the Trust Intranet site.

Informal Procedure

Appendix 2





South Tyneside NHS Foundation Trust Bullying and Harassment Contact Form

Any member of the Personnel *department*, Trade Union *representative* or Listening *adviser* who is approached by an employee who claims to have been bullied or harassed should complete a copy of this form and send it to Mandy White, Divisional Personnel Manager.

The purpose of this form is to provide anonymous information about claims of bullying and harassment made by employees who do not wish to pursue matters through a formal route. The information will be used for monitoring the overall level and nature of allegations of bullying and harassment within *the Trust* and be reported to the Fairness at Work Group on a quarterly basis.

Details of Employee Raising Concern	
Department	
Occupation	
Length of Service	
Age	
Gender	
Disability	
Religious Belief/ Faith	
Sexual Orientation	
Ethnic Origin	
	Please tick all of the appropriate boxes
Details of Alleged Perpetrator	
Direct Line Manager	
Manager's Manager	
Staff who they manage	
Colleague in the same team	
Colleague in a different team	
Nature of Alleged B&H	
Physical contact	
Verbal Abuse	
Exclusion	
Coercion	
Pestering	
Patronising	
Intrusion	
victimisation	

Situation in which the alleged B&H took place	
Email	
Meeting	
Face to Face discussion	
Telephone discussion	
Social Media eg. Facebook/ Twitter	
Outside of Work	
Content of Alleged B&H (if applicable)	
Sexual	
Cultural	
Racial	
Religious	
Political	
Physical Characteristics	
Physical Ability	
Intellectual Ability	
Other – Please describe	
Has the Alleged B&H been discussed with anyone else	
No	
Yes	
If yes who? (Trade Union, Personnel, Listening Advisor, Manager)	
Extent of B&H	
Single Incident	
Re-occurring	
Date of when Alleged B&H started	
Description of Alleged B&H	

Outcome	
No action taken at employees request	
Employee to discuss directly with alleged perpetrator	
Employee to discuss with line manager for informal resolution	
Employee to submit a formal B&H complaint	
Person Completing the Form	
Name	
Position	
Signature	
Date	